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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-862]

Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of polyethylene terephthalate (PET) resin from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1396 or (202) 482-4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 2018, Commerce published in the *Federal Register* the preliminary affirmative determination of sales at LTFV in the antidumping duty (AD) investigation of PET

resin from Taiwan.¹ Commerce invited comments from interested parties on the *Preliminary Determination*.² The petitioners,³ Far Eastern,⁴ and Shinkong Synthetic Fibers Corporation (Shinkong) filed case and rebuttal briefs.⁵ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.⁶ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

¹ See *Polyethylene Terephthalate Resin from Taiwan: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

² *Id.* at 19698; see also Memorandum, "Antidumping Duty Investigation of Polyethylene Terephthalate (PET) Resin from Taiwan: Briefing Schedule for the Final Determination," dated August 1, 2018.

³ DAK Americas, LLC Indorama Ventures USA, Ind., M&G Polymers USA, LLC, and Nan Ya Plastics Corporation, America (collectively, the petitioners).

⁴ Far Eastern New Century Corporation (FENC), Far Eastern Textile Ltd. (FETL), and Worldwide Polychem (HK), Ltd. (WWP) (collectively, Far Eastern).

⁵ See the petitioners' Case Brief, "Polyethylene Terephthalate Resin from Taiwan: Petitioners' Case Brief Concerning Far Eastern," dated August 9, 2018 (Petitioners' Case Brief re Far Eastern); see also the petitioners' Case Brief, "Polyethylene Terephthalate Resin from Taiwan: Petitioners' Case Brief Concerning Shinkong Synthetic Fibers Corp.," dated August 9, 2018 (Petitioners' Case Brief re Shinkong); see also Far Eastern's Case Brief, "Investigation of Polyethylene Terephthalate Resin from Taiwan - Case Brief," dated August 8, 2018 (Far Eastern's Case Brief); see also Shinkong's Case Brief, "Polyethylene Terephthalate (PET) Resin from Taiwan: Case Brief," dated August 8, 2018 (Shinkong's Case Brief); see also the petitioners' Rebuttal Brief, "Polyethylene Terephthalate Resin from Taiwan: Petitioners' Rebuttal Brief Concerning Far Eastern," dated August 14, 2018 (Petitioners' Rebuttal Brief re Far Eastern); see also the petitioners' Rebuttal Brief, "Polyethylene Terephthalate Resin from Taiwan: Petitioners' Rebuttal Brief Concerning Shinkong," dated August 14, 2018 (Petitioners' Rebuttal Brief re Shinkong); see also Far Eastern's Rebuttal Brief, "Investigation of Polyethylene Terephthalate Resin from Taiwan - Rebuttal Brief," dated August 14, 2018 (Far Eastern's Rebuttal Brief); see also Shinkong's Rebuttal Brief, "Polyethylene Terephthalate (PET) Resin from Taiwan: Rebuttal Brief," dated August 14, 2018 (Shinkong's Rebuttal Brief).

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Polyethylene Terephthalate Resin from Taiwan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is polyethylene terephthalate resin from Taiwan. Commerce did not receive any scope comments subsequent to the *Preliminary Determination* and, therefore, the scope has not been updated since the *Preliminary Determination*. For a complete description of the scope of this investigation, see Appendix I.

Period of Investigation

The period of investigation (POI) is July 1, 2016, through June 30, 2017.

Verification

As provided in section 782(i) of the Act, we conducted the cost and sales verifications in Taipei, Taiwan, between May 7, 2018, and May 18, 2018. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination*, in accordance with section 733(e)(1) of the Act and 19 CFR 351.206, Commerce found that critical circumstances exist for Far Eastern and “all other” producers or exporters not individually examined and found that critical circumstances did not exist for Shinkong.⁷ Commerce received comments from Far Eastern and the petitioners concerning the preliminary critical circumstances determination, which are discussed in the Issues and Decision Memorandum. For this final determination, Commerce continues to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for Far Eastern. Moreover, for this final determination, we determine that critical circumstances exist for Shinkong, but do not exist for “all other” producers or exporters not individually examined.

⁷ See also *Preliminary Determination of Critical Circumstances*, 83 FR 17791 (April 24, 2018).

Analysis of Comments Received

Issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II.

Use of Facts Otherwise Available and Adverse Inferences

For purposes of this final determination, Commerce relied on facts otherwise available with adverse inferences when calculating the margin for Shinkong, pursuant to sections 776(a)(2)(A)-(C) and 776(b) of the Act. For further information regarding the use of facts available and adverse inferences, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an estimated weighted-average dumping margin for Far Eastern and based Shinkong's rate entirely on facts otherwise available. Accordingly, the all-others' rate in this investigation is the weighted-average dumping margin calculated for Far Eastern.

Final Determination Margins

Commerce determines that the following estimated weighted-average dumping margins exist:

| Exporter/Producer | Estimated Weighted-Average Dumping Margin (percent) |
|--|---|
| Far Eastern New Century Corporation, Far Eastern Textile Ltd., and Worldwide Polychem (HK), Ltd. | 5.16 |
| Shinkong Synthetic Fibers Corporation | 45.00 |
| All-Others | 5.16 |

Disclosure

We intend to disclose to interested parties the calculations performed in this final determination within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, for this final determination, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all entries of PET resin, as described in the Appendix I to this notice, produced or exported by Far Eastern; and begin the suspension of liquidation of all entries of PET resin, produced or exported by Shinkong, which were entered, or withdrawn from warehouse, for consumption on or after February 3, 2018 (90 days prior to the date of publication of the *Preliminary Determination*), because we find that critical circumstances exist with regard to imports produced or exported by Far Eastern and Shinkong.

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to continue to suspend liquidation of all appropriate entries of PET resin from Taiwan, as described

in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 4, 2018, the date of publication of the *Preliminary Determination*.

Furthermore, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from Taiwan no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn

from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties, subject to administrative protective order (APO), of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: September 17, 2018.

Gary Taverman,

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,

performing the non-exclusive functions and duties of the

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. SUMMARY
- II. BACKGROUND
- III. SCOPE OF THE INVESTIGATION
- IV. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART
- V. CHANGES SINCE THE PRELIMINARY DETERMINATION
- VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES
- VII. DISCUSSION OF THE ISSUES

Comment 1: Whether Commerce Should Rely on Total Adverse Facts Available for Shinkong

Comment 2: Whether Shinkong Reported the Correct Date of Sale for Its Home Market Sales

Comment 3: Whether Shinkong Reported the Correct Shipment Date for Its Home Market Sales

Comment 4: Whether Far Eastern Underreported Its Production Quantities for Blended Products

Comment 5: Whether Far Eastern Manipulated Its Sales Reporting Between Cost and Sales Verifications

Comment 6: Whether to Incorporate Findings from Commerce's Cost Verification in the Final Determination for Far Eastern – Cost Adjustment Ratio

- Comment 7: Whether to Incorporate Findings from Commerce's Cost Verification in the Final Determination for Far Eastern – General and Administrative Expense Ratio
- Comment 8: Whether Commerce Should Apply Adverse Facts Available to Far Eastern's Report of Blended PET Resin
- Comment 9: Whether Far Eastern has Omitted Certain Subject Merchandise Sales from its U.S. Sales Database
- Comment 10: Whether one of Far Eastern's U.S. Sales should be Excluded from the Margin Calculation
- Comment 11: Far Eastern's U.S. Sales Channels
- Comment 12: Whether Far Eastern's Correction to Packing Expenses Submitted at Verification Should be Rejected
- Comment 13: Whether Commerce Should Make a Finding of Critical Circumstances with respect to Far Eastern in the Final Determination

VIII. RECOMMENDATION

[FR Doc. 2018-20723 Filed: 9/21/2018 8:45 am; Publication Date: 9/24/2018]